

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 JEANNE OLIVA, an individual,
8 Plaintiff,

Case No. 2:18-cv-01718-RFB-NJK

ORDER

9 v.

10 COX COMMUNICATIONS LAS VEGAS,
11 INC., a foreign corporation; and DOES I
12 through X, inclusive; and ROE
13 CORPORATIONS I through X, inclusive,
Defendants.

14 **I. INTRODUCTION**

15 Before the Court is Plaintiff Jeanne Oliva's Motion to Remand. ECF No. 11. Defendant
16 Cox Communications Las Vegas, Inc. opposed the Motion, and Plaintiff replied. ECF Nos. 13,
17 14.

18 **II. BACKGROUND**

19 Plaintiff filed her complaint in state court on May 10, 2017, alleging personal injuries
20 caused by Defendant's negligence. ECF No. 1-2. The complaint seeks general damages in excess
21 of \$10,000 as well as medical expenses and special damages in excess of \$15,000. Id.

22 In August 2017, Plaintiff initially provided a computation of damages totaling \$18,879.02
23 when moving for exemption from the state arbitration program and when providing her initial
24 disclosures. ECF Nos. 1-3, 13-3. She supplemented her damages computation on November 6,
25 2018, reporting damages that totaled \$22,296.02. ECF No. 11-8.

26 Plaintiff then testified in a deposition on May 9, 2018. See ECF No. 11-1, 7. During the
27 deposition, Plaintiff provided testimony regarding her damages resulting from lost wages. Id. She
28 also testified that she withdrew approximately \$200,000 from her 401k as a result of her at-issue

1 injuries. Id. Defendants acknowledged this testimony by signing the parties' Discovery Statement
2 Pursuant to Judge Koppe's September 10, 2018 Minute Order ("Discovery Statement").¹

3 Plaintiff served her second supplement to her initial disclosures on August 22, 2018, listing
4 her computation of damages as \$30,972.62 in medical expenses, \$211,708.94 in past financial loss,
5 and \$377,624.88 in future financial loss. ECF No. 13-5. Defendant then petitioned for removal
6 on September 7, 2018, alleging diversity jurisdiction. ECF No. 1. Plaintiff now moves to remand
7 the matter to state court. ECF No. 11.

8 **III. LEGAL STANDARD**

9 A defendant may remove a matter first filed in state court to a federal court if the federal
10 court has original jurisdiction. 28 U.S.C. § 1441(a). Federal courts have original jurisdiction over
11 actions where the matter in controversy is greater than \$75,000 if there is complete diversity
12 between the plaintiff and each defendant. 28 U.S.C. § 1332(a).

13 When a matter is removable on the face of the initial pleading, a defendant must remove
14 the matter within thirty days of service. 28 U.S.C. § 1446(b); Harris v. Bankers Life and Cas. Co.,
15 425 F.3d 689, 694 (9th Cir. 2005). When a matter is not removable on the face of the initial
16 pleading, a defendant must remove the matter within "thirty days from the revelation of grounds
17 for removal in an amended pleading, motion, order, or other paper[.]" Id. at 695 (internal quotation
18 omitted). "[N]otice of removability under § 1446(b) is determined through examination of the
19 four corners of the applicable pleadings, not through subjective knowledge or a duty to make
20 further inquiry." Id. at 694. Further, a matter may not be removed more than one year after the
21 commencement of the action unless the plaintiff has acted in bad faith to prevent removal of the
22 matter. 28 U.S.C. § 1446(c).

23 "Removal and subject matter jurisdiction statutes are strictly construed, and a defendant
24 seeking removal has the burden to establish that removal is proper and any doubt is resolved
25 against removability." Hawaii ex rel. Louie v. HSBC Bank Nev., N.A., 761 F.3d 1027, 1034 (9th
26 Cir. 2014) (citation and quotation marks omitted).

27
28 ¹ The Discovery Statement states: "During [Plaintiff's] deposition, in addition to discussing
the lost wages, Plaintiff estimated she had taken approximately \$200,000 out of her 401k which
she alleged was due to her injuries and inability to work." ECF No. 7 at 5.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

- 2
- 3
- 4
- 5

6
7
8
9
10
11
12
13
14
15

16

17

18

20

21

22

23

28